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No. 82-738

In The
Supreme Court of the United States
October Term, 1982

DR. ETHEL MIGRA,
Petitioner,

vs.

WARREN CITY SCHOOL DISTRICT
BOARD OF EDUCATION, et al.,
Respondents.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

SUPPLEMENTAL BRIEF FOR RESPONDENTS

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Pursuant to Rule 35 of this Court, respondents Warren City School District Board of Education and Catherine O. Swan, Henry J. Angelo, Willard T. Rubin, Raymond Tesner, Mary Milheim, and Barbara Miller hereby submit for the information and assistance of the Court the following recently-reported decisions of the United States Courts of Appeal for the First and Fifth Circuits:

Isaac v. Schwartz, 706 F. 2d 15 (1st Cir. 1983).

Nilsen v. City of Moss Point, Mississippi, 701 F. 2d 556 (5th Cir. 1983) (*en banc*).

Both of the above decisions adopt the modern, "transactional" definition of a cause of action as set forth in the Restatement (Second) of Judgments § 24 (1982). *See Isaac, supra*, 706 F. 2d at 17; *Nilsen, supra*, 701 F. 2d at 560 n. 4; *see also Nevada v. United States*, — U. S. —,

103 S. Ct. 2906, 2918 n. 12 (1983) (Restatement view "a more pragmatic approach"). As discussed at length in respondents' main brief to this Court, this "transactional" view of a cause of action is the view which now applies in Ohio following the decision of the Ohio Supreme Court in *Johnson's Island v. Board of Township Trustees*, 69 Ohio St. 2d 241 (1982), and which properly bars petitioner's claims as *res judicata*.

Respectfully submitted,

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